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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,619	03/30/2005	William B. Dragan	P-2442/CIP	1894
2120	7590	01/24/2008	EXAMINER	
PAUL A. FATTIBENE			BUMGARNER, MELBA N	
FATTIBENE & FATTIBENE				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/529,619

Applicant(s)

DRAGAN, WILLIAM B.

Examiner

Melba Bumgarner

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-36 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____                                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____   | 6) <input type="checkbox"/> Other: ____                           |

## DETAILED ACTION

### *Election/Restrictions*

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-12, drawn to a pre-dosed applicator.

Group II, claim(s) 13 and 14, drawn to a method of making an applicator.

Group III claim(s) 15 and 16, drawn to a method of applying a material.

Group IV, claim(s) 17-26 and 31-33, drawn to an application system.

Group V, claim(s) 27-30, drawn to a dental tooth cleaner and gingival stimulator.

Group VI, claim(s) 34, drawn to a pre-dosed dental desensitizing system.

Group VII, claim(s) 35 and 36, drawn to a method of applying a material.

2. The inventions listed as Groups I-VII do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The special technical feature of the Group I invention is the pre-dosed foamed portion claimed therein while the special technical feature of the Group II invention is the step of placing wet material on absorbent substance claimed therein. Since the special technical feature of the Group I invention is not present in the Group II invention being claimed and the special technical feature of the Group II invention is not present in the Group I invention being claimed, unity of invention is lacking.

The special technical feature of the Group I invention is the pre-dosed foamed portion claimed therein while the special technical feature of the Group III invention is the step of reactivating a dry and inactive material on a handle claimed therein. Since the special technical feature of the Group I invention is not present in the Group III invention being claimed and the special technical feature of the Group III invention is not present in the Group I invention being claimed, unity of invention is lacking.

Art Unit: 3732

The special technical feature of the Group I invention is the pre-dosed foamed portion claimed therein while the special technical feature of the Group IV invention is the container claimed therein. Since the special technical feature of the Group I invention is not present in the Group IV invention being claimed and the special technical feature of the Group IV invention is not present in the Group I invention being claimed, unity of invention is lacking.

The special technical feature of the Group I invention is the pre-dosed flocked portion claimed therein while the special technical feature of the Group V invention is the neck claimed therein. Since the special technical feature of the Group I invention is not present in the Group V invention being claimed and the special technical feature of the Group V invention is not present in the Group I invention being claimed, unity of invention is lacking.

The special technical feature of the Group I invention is the pre-dosed flocked portion claimed therein while the special technical feature of the Group VI invention is the sealed package claimed therein. Since the special technical feature of the Group I invention is not present in the Group VI invention being claimed and the special technical feature of the Group VI invention is not present in the Group I invention being claimed, unity of invention is lacking.

The special technical feature of the Group I invention is the pre-dosed flocked portion claimed therein while the special technical feature of the Group VII invention is the step of saturating an applicator portion claimed therein. Since the special technical feature of the Group I invention is not present in the Group VII invention being claimed and the special technical feature of the Group VII invention is not present in the Group I invention being claimed, unity of invention is lacking.

The special technical feature of the Group II invention is the step of placing wet material on absorbent substance claimed therein while the special technical feature of the Group III invention is the step of reactivating a dry and inactive material on a handle claimed therein. Since the special technical feature of the Group II invention is not present in the Group III invention being claimed and the special technical feature of the Group III invention is not present in the Group II invention being claimed, unity of invention is lacking.

The special technical feature of the Group II invention is the step of placing wet material on absorbent substance claimed therein while the special technical feature of the Group IV invention is the container claimed therein. Since the special technical feature of the Group II invention is not present in the Group IV invention being claimed and the special technical feature of the Group IV invention is not present in the Group II invention being claimed, unity of invention is lacking.

The special technical feature of the Group II invention is the step of placing wet material on absorbent substance claimed therein while the special technical feature of the Group V invention is the neck claimed therein. Since the special technical feature of the Group II invention is not present in the Group V invention being claimed and the special technical feature of the Group V invention is not present in the Group II invention being claimed, unity of invention is lacking.

The special technical feature of the Group II invention is the step of placing wet material on absorbent substance claimed therein while the special technical feature of the Group VI invention is the sealed package claimed therein. Since the special technical feature of the Group II invention is not present in the Group VI invention being claimed and the special technical

Art Unit: 3732

feature of the Group VI invention is not present in the Group II invention being claimed, unity of invention is lacking.

The special technical feature of the Group II invention is the step of placing wet material on absorbent substance claimed therein while the special technical feature of the Group VII invention is the step of saturating an applicator portion claimed therein. Since the special technical feature of the Group II invention is not present in the Group VII invention being claimed and the special technical feature of the Group VII invention is not present in the Group II invention being claimed, unity of invention is lacking.

The special technical feature of the Group III invention is the step of reactivating a dry and inactive material on a handle claimed therein while the special technical feature of the Group IV invention is the container claimed therein. Since the special technical feature of the Group III invention is not present in the Group IV invention being claimed and the special technical feature of the Group IV invention is not present in the Group III invention being claimed, unity of invention is lacking.

The special technical feature of the Group III invention is the step of reactivating a dry and inactive material on a handle claimed therein while the special technical feature of the Group V invention is the neck claimed therein. Since the special technical feature of the Group III invention is not present in the Group V invention being claimed and the special technical feature of the Group V invention is not present in the Group III invention being claimed, unity of invention is lacking.

The special technical feature of the Group III invention is the step of reactivating a dry and inactive material on a handle claimed therein while the special technical feature of the Group VI invention is the sealed package claimed therein. Since the special technical feature of the Group III invention is not present in the Group VI invention being claimed and the special technical feature of the Group VI invention is not present in the Group III invention being claimed, unity of invention is lacking.

The special technical feature of the Group III invention is the step of reactivating a dry and inactive material on a handle claimed therein while the special technical feature of the Group VII invention is the step of saturating an applicator portion claimed therein. Since the special technical feature of the Group III invention is not present in the Group VII invention being claimed and the special technical feature of the Group VII invention is not present in the Group III invention being claimed, unity of invention is lacking.

The special technical feature of the Group IV invention is the container on a handle claimed therein while the special technical feature of the Group V invention is the neck claimed therein. Since the special technical feature of the Group IV invention is not present in the Group V invention being claimed and the special technical feature of the Group V invention is not present in the Group IV invention being claimed, unity of invention is lacking.

The special technical feature of the Group IV invention is the container on a handle claimed therein while the special technical feature of the Group VI invention is the sealed package claimed therein. Since the special technical feature of the Group IV invention is not present in the Group VI invention being claimed and the special technical feature of the Group VI invention is not present in the Group IV invention being claimed, unity of invention is lacking.

Art Unit: 3732

The special technical feature of the Group V invention is the neck claimed therein while the special technical feature of the Group VI invention is the sealed package claimed therein. Since the special technical feature of the Group V invention is not present in the Group VI invention being claimed and the special technical feature of the Group VI invention is not present in the Group V invention being claimed, unity of invention is lacking.

3. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Species A of figures 1-5,

Species B of figure 6,

Species C of figures 7-9, and

Species D of figures 10 and 10A

Species E of figure 15.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Art Unit: 3732

The following claim(s) are generic: 1.

4. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: Species A lacks container, Species B lacks cannula, Species C lacks package, Species D lacks package, Species E lacks cannula.

5. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

6. Any inquiry concerning this communication from the examiner should be directed to Melba Bumgarner whose telephone number is 571-272-4709. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached at 571-272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3732

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Melba Bumgarner  
Primary Examiner